AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior versions, and listings, of claims in the application:

1 (currently amended). A viral DNA construct encoding for an adenovirus capable of replication in a human or animal tumor cell the construct comprising a wild type adenovirus DNA sequence having one or more ~~selected~~ human or animal transcription factor binding sites operatively positioned together with the adenovirus E1A open reading frame such as to promote expression of E1A proteins in the presence of said ~~selected~~ human or animal transcription factor, wherein the level or activity of the transcription factor is increased in a human or animal tumor cell relative to that of a normal human or animal cell of the same type; with one or more of the human or animal transcription factor binding sites being inserted into the right hand inverted terminal repeat (ITR) such as to provide sufficient symmetry to allow it to base pair to the left hand ITR during replication~~and~~ wherein the viral DNA construct further comprises wild type transcription factor binding sites for the E2 and E3 open reading frames and a therapeutic gene positioned at a location selected from the group consisting of a location between the adenovirus fibre gene and the adenovirus E4 region in the major late transcription unit of the viral construct and a location under control of the E3 promoter.

2 (original). A viral construct as claimed in claim 1 wherein the therapeutic gene is a suicide gene positioned between the fibre gene and the E4 region in the major late transcription unit of the viral construct.

3 (original). A viral construct as claimed in claim 1 wherein the construct encodes a full complement of adenoviral proteins.

4 (original). A viral construct as claimed in claim 1 wherein the wild type packaging signal is deleted from its wild type site adjacent the left hand inverted terminal repeat (ITR) and inserted elsewhere in the construct, in either forward or backward orientation.

5 (currently amended). A viral construct as claimed in claim 2 wherein the suicide gene encodes a protein that is selected from the group consisting of HSV thymidine kinase, nitroreductase and cytosine deaminase.

6 (previously presented). A viral construct as claimed in claim 1 wherein the therapeutic gene is expressed late in a replication-dependent manner using an IRES or by differential splicing.

7 (original). A viral construct according to claim 1 wherein the selected transcription factor binding site is a Tcf-4 transcription factor binding site.

8 (original). A viral construct as claimed in claim 1 wherein the E4 promoter contains part of the E1A enhancer of the packaging signal flanked by Tcf and E4F sites.

9 (previously presented). A virus comprising or encoded by the DNA construct as claimed in claim 1.

10 (presently presented). A method for treating a patient in need of therapy for a neoplasm wherein a viral DNA construct as claimed claim 1 is caused to infect tissues of the patient, including or restricted to those of the neoplasm, and allowed to replicate such that neoplasm cells are caused to be killed.

11 (original). A method as claimed in claim 10 characterised in that the patient is in need of therapy for a colon cell derived tumor.

12-20 (cancelled).

21 (currently amended). A viral construct according to ~~claim 20~~ claim 1 wherein the selected transcription factor binding sites are selected from the group consisting of Tcf-4, RBPJκ, Gli-I, HIF1alpha and a fragment of a telomerase promoter conferring tumor-specific transcription ~~binding sites~~.

22 (currently amended). A viral construct according to ~~claim 20~~ claim 1 wherein the therapeutic gene is a suicide gene expressed in a replication-dependent manner.

23 (currently amended). A viral construct as claimed in ~~claim 20~~ claim 1 wherein the therapeutic gene is positioned between the fibre gene and E4 in the major late transcription unit.

24 (cancelled).

25 (currently amended). A viral construct as claimed in ~~claim 20~~ claim 1 wherein the viral construct encodes a full complement of adenoviral proteins.

26-31 (cancelled).